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DIVISION II

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STATE OF WASHINGTON

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WASHINGTON STATE COURT OF APPEALS

DIVISION II

Case No. 54463-6-II

Court of Appeals, Division II
Of The State Of Washington

David Ostgaard
Appellant

*APPELLANT'S
BRIEF*

v.

John Kraskov and Christina Kraskov
Respondent

DATE: 8-13-21

David Ostgaard

PRO-SE

RESPECTFULLY

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ASSIGNMENT OF ERROR

No.1: The trial court made an error in judgement when finding in favor of John Kraskov when the Cowlitz County Treasurer, Kathy Hanks denied David Ostgaard his right to record his documants into real property on June 1, 2018.

No.2: The trial court made an error in judgement when finding in favor of John Kraskov by overturning David Ostgaards Order of Judgement.

No.3: The trial court made an error in judgement when finding in favor of John Kraskov when David Ostgaard was not not notified of taxes due.

No.4: The trial court made an error in judgement when finding in favor of John Kraskov when allowing Mr. Kraskov to eject David Ostgaard from his property.

No.5: The trial court made an error in judgement when finding in favor of John Kraskov based on the claim that the County of Cowlitz did not recognize David Ostgaard as having a vested interest in his property

ISSUES PERTAINING TO ASSIGNMENT OF ERRORS

No.1: On June 1, 2018 Kathy Hanks would not accept David Ostgaards documents to put into real property.

No.2: Should Judge Bashor have stepped down from this case.

No.3: David Ostgaard was never notified of taxes due.

No.4: On April 24 2019 the courts allowed for John Kraskov to eject David Ostgaard from Parcel No. EF17-01-013.

No.5: Would David Ostgaard have lost his two acres from parcel EF17-01-013 if treasurer would not have failed to locate Quitclaim Deed or lis pendens from records.

STATEMENT

No.1: On June 1, 2018 at approximately 8:00am David Ostgaard went into the Cowlitz County Treasurers Office to put into real property documents which included his Bill of Sale from Tedd Ratermann and his payment sheets showing proof that on this day of June 1, 2018 Mr. Ostgaard had finished purchasing his two acres of parcel EF17-01-013 from Tedd Ratermann(see attached certificate of debt satisfaction and subsequent conveyance of title see pg.17-18) Kathy Hanks took Mr. Ostgaards rights to put documents into real property were violated.(fifth amendment-due process). Kathy Hanks duties were not to toss documents into the trash, (rcw 65.04.080—Entries when instruments offered for record. See pg.10) Kathy Hanks told Mr. Ostgaard he needed to go back to talk to Tedd Ratermann about property. When Mr. Ostgaard asked for his documents back she told Mr. Ostgaard he needed to leave the premisis before she called security. Kathy Hanks threw away the only copy of Mr. Ostgaards Bill of Sale. Not fully sure what she was talking about David Ostgaard took Tedd Ratermann to court, case No.18-2-00826-08.(see attached Order for Judgement by Default pg.23)

No.2: On August 30, 2018 in Cowlitz County Superior Court case no. 18-2-00826-08 David Ostgaard v. Tedd Ratermann, the Honorable Judge Bashor by Order of Judgement by Default granted first conveyance of two full acres from Parcel No. EF17-01-013 along with a copy of the lis pendens(pg.22) that was signed, dated and entered by the Cowlitz County Superior Court, (see attached Rcw 4.28.320-Lis pendens in actions affecting title to real estate pg.11) Then on February 21, 2020 court case No.19-2-00546-08 by a General Judgement, Judge Bashor granted this same parcel to John and Christina Kraskov. Judge Bashor was also

involved in case 08-2-00634-08. Considering Judge Bashors past involvement with this parcel he should not have been the judge in this case or handed down the ruling against Mr. Ostgaard. A conflict of interest as well as a question of ethics is obvious here. (wac182-526-0245--Disqualifying an administrative law judge or review judge see pg.16)

No.3: David Ostgaard would have known about taxes due and paid them if Kathy Hanks would have allowed for Mr. Ostgaard to put his documents into record on June 1, 2018(rcw 84.56.310--Interested person may pay real property taxes. See pg.12) Based on false claims made by Garrett Sharp, attorney for the plaintiff, states in his trial brief that he obtained from the Cowlitz County Treasurer the Litigation/Foreclosure/Tax Delinquent Notice of Sale on June 1, 2018 this is the same day David Ostgaard made his final payment to Tedd Ratermann for his two acres, fulfilling his contract and becoming owner of his land. (please see attached contractual payment outline between Ostgaard/Ratermann pg.17-17) on this same day Mr. Ostgaard tried to record his documents into real property. He was not notified of taxes due as he had a recorded interest in the parcel, supported by rcw 84.64.060 (Payment by Interested Person Before Day of Sale.see pg.13) Again David Ostgaard had went into the treasurer's office and Kathy Hanks denied David Ostgaard his rights from recording his documents into real property.(rcw 65.08.150-Duty to record.pg.14) The Cowlitz County Treasurer's Office overlooked the information that David Ostgaard had in real property as being the owner of two acres from Parcel EF17-01-013. If someone would have looked in real property they would have found that a lis pendens was on record dated July 26, 2018. The treasurer had an obligation to seek out the recorded order and adhere to its guidelines upon commencing any attempts to sell the property at auction.(rcw 65.04.015--Definitions -Duty of County Auditor

pg.15) David Ostgaard went in person to the Cowlitz County Treasurers Office to file into real property, as Washington State Law requires.

No.4: On April 24, 2020 John Kraskov and a few other people David Ostgaard did not recognize showed up at his home that was located on parcel EF17-01-013 ejecting him from his home, even though he had prayed to the court through Motion of Stay Judgment several weeks earlier. As a result of the trial court error there has been extensive damage done to the property as well as the neighboring parcel by Mr. Kraskov. He has not only diminished his own property value but also has diminished neighboring land by digging 10 foot ditches all around the north most point of his property. Not to mention the enormous potential for grave physical harm that may come to any person, animal or vehicle that tries to travel the easement road which has been an established public right of way since October 7, 1916. Not to mention that the perpetual public easement road that neighboring parcel EF17-01-012 also used was taken out by John Kraskov. Both Garrett Sharp and John Kraskov failed to verify this prior to doing the damage. please see attached photographs of the damage Mr. Kraskov has caused to the public's safety.

No.5: The Cowlitz County Treasurer should be held accountable for not locating and honoring that David Ostgaard had a lis pendens,pg. dated July 26, 2018 which had been recorded with the Cowlitz County Auditor several months prior to the foreclosure sale on December 10, 2018.

David Ostgaard had on June 1, 2018 went in person to the cowlitz county Treasurers Office to record into real property his Bill of Sale and his Certificate of debt satisfaction and subsequent conveyance of title, when at this time Kathy Hhanks would not record these

documents, according to rcw 65.04.080 Kathy Hanks should have put Mr. Ostgaards documents into real property. This would have prevented parcel to be put in foreclosure with Mr. Ostgaard making his last payment to Tedd Ratermann on June 1, 2018 which also would have prevented Garrett Sharp from obtaining the Litigation/foreclosure/tax delinquent notice of sale on this same day. David Ostgaard also had a Quitclaim Deed that was dated June 22, 2018 that was notarized. On July 26, 2018 David Ostgaard was granted a lis pendens which was recorded into real property case No.18-2-00826-08 which also should have prevented foreclosure. Plaintiff obtained a Cowlitz County Treasurers Deed on December 20, 2018, David Ostgaards Quitclaim Deed filed on December 17, 2018 but dated June 22, 2018 still beats there date.

In the Verbatim page 6 line 20 case no. 18-2-00634-08 exhibits were never shown to Mr. Ostgaard.

State Law requires) his Bill of Sale from Tedd Ratermann to David Ostgaard and his payment sheet showing Mr. Ostgaards last payment as being on June 1, 2018. He handed these documents along with his information on obtaining a Quitclaim Deed for the property sale of June 1st and the Treasurer, Kathy Hanks told Mr. Ostgaard he could not put items into real property because he had no right too. As she was tossing documents into the trash she told Mr. Ostgaard he needed to go back and talk to Tedd Ratermann because property should not have been sold. I was not able to talk to Tedd Ratermann until June 22, this is the date that we got together for the Quitclaim Deed that was for the sale on June 1, 2018. She would not put any legal forms showing that David Ostgaard was owner of this parcel into real property. Rcw 65.04.015. see attached payment sheet.

No. 5: On April 24 2019 the courts allowed for John Kraskov to eject David Ostgaard from Parcel No. EF17-01-013 even though he had prayed to the court through Motion of Stay Judgment several weeks earlier. As a result of the trial court error there has been extensive damage done to the property as well as the neighboring parcel by Mr. Kraskov. He has not only diminished his own property value but also has diminished neighboring land by digging 10 foot ditches all around the north most point of his property. Not to mention the enormous potential for grave physical harm that may come to any person, animal or vehicle that tries to travel the easement road which has been an established public right of way since October 7, 1916. Not to mention that the perpetual public easement road that neighboring parcel EF17-01-012 also used was taken out by John Kraskov. Both Garrett Sharp and John

ASSIGNMENT OF ERROR

No.1: The trial court made an error in judgement when finding in favor of John Kraskov when the Cowlitz County Treasurer, Kathy Hanks denied David Ostgaard to record his documants into real property on June 1, 2018.

No.2: The trial court made an error in judgement when finding in favor of John Kraskov based on false claims made by Garrett Sharp, attorney for the plaintiff and by Kathy Hanks, Cowlitz County Treasurer.

No.3: The trial court made an error in judgement when finding in favor of John Kraskov by overturning David Ostgaards Order of Judgement.

No.4: The trial court made an error in judgement when finding in favor of John Kraskov when David Ostgaard was not not notified of taxes due.

No.5: The trial court made an error in judgement when finding in favor of John Kraskov when allowing Mr. Kraskov to eject David Ostgaard from his property.

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Kraskov failed to verify this prior to doing the damage. please see attached photographs of the damage Mr. Kraskov has caused to the public's safety.

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REQUEST FOR RELIEF

1. David Ostgaard request that the court enter judgment against John Kraskov and Christina Kraskov as follows:

a. Ordering plaintiffs to leave parcel and have no claiming rights, Plaintiffs not allowed to enter parcel without express permission from David Ostgaard.

b. Declaring that John and Christina Kraskov have no right to the Parcel including easement rights or any other property rights.

c. Award David Ostgaard his claimed damages of \$35,000 or such other amount be determined at time of hearing.

d. Emotional distress damages.

e. Award David Ostgaard reasonable investigative costs and litigation costs in amount to be determined at time of hearing.

f. Award David Ostgaard any additional statutory costs permitted by law.

g. Award David Ostgaard any additional damages or relief which is permitted by law or which the court finds equitable, appropriate or just

No.5: The trial court made an error in judgement when finding in favor of John Kraskov when
allowing Mr. Kraskov to eject David Ostgaard from his property.

STATEMENT OF FACTS

No.1: Garrett Sharp, attorney for the plaintiff, states in his trial brief that he obtained from the Cowlitz County Treasurer the Litigation/Foreclosure/Tax Delinquent Notice of Sale on June 1, 2018 when in fact it was obtained June 5, 2018. please see attached (Treasurers Litigation Document and Contractual Payment Outline between Ostgaard/Ratermann.)

No.2: On August 30, 2018 in Cowlitz County Superior Court case no. 18-2-00826-08 David Ostgaard v. Tedd Ratermann, the Honorable Judge Bashor by Order of Judgement by Default, granted first conveyance of two full acres from Parcel No. EF17-01-013 to David Ostgaard that was signed, dated and entered by the Cowlitz County Superior Court. Legal description of parcel is as follows: SECT.TWN.RNG: 17-10N-1E DESC: T-1A, 4A-7, 4C AKA TR 11 ROS 14/5 PARCEL: EF17-01-013, RV-OSA LEVEL LOT, BARE LAND TAX PARCEL NO. EF17-01-012, EF17-01-013. 9.940 ACRES. Then on February 21 2020 the Honorable Judge Bashor by a General Judgement granted this same parcel to John and Christina Kraskov. Considering



David Ostgaards right to be notified of taxes due and payable by way of the Cowlitz County Treasurers

Office upon filing the Notice of Foreclosure on June 1, 2018 against Parcel No. EF17-01-013 were

violated. He was not notified as he had a recorded interest in the parcel, supported by rcw 84.64.060

(Payment by Interested Person Before Day of Sale.)

No.4: The trial court made an error in judgement when finding in favor of John Kraskov when

David Ostgaard had a valid Lis Pendens filed and recorded on July 26, 2018 in Cowlitz County which

immediately nullified any third party purchase of the property without first negotiating acceptable

terms with Mr. Ostgaard. The Cowlitz County Treasurer had an obligation to seek out the recorded

order and adhere to its guidelines upon commencing any attempts to sell the property at auction.

CONCLUSION

1. The first relief sought by David Ostgaard is that his ownership of two acres from parcel EF17-01-013 be reinstated immediately.

2. The second relief sought by David Ostgaard is \$16,000 for loss of enjoyment and use of his property.

3. The third relief sought by David Ostgaard is that any cloud on his deed/title be cleared.

4. The fourth relief sought by David Ostgaard is that the court enter a judgment against John Kraskov and Christina Kraskov as follows:

a. Ordering plaintiffs to leave parcel and have no claiming rights, Plaintiffs not allowed to enter parcel without express permission from David Ostgaard.

b. Declaring that John and Christina Kraskov have no right to the Parcel including easement rights or any other property rights.

5. The fifth relief sought by David Ostgaard is to be awarded \$125,000 for damages done to the parcel or such other amount be determined at time of hearing.

a. Emotional distress damages.

b. Award David Ostgaard reasonable investigative costs and litigation costs in amount to be determined at time of hearing.

c. Award David Ostgaard any additional statutory costs permitted by law.

d. Award David Ostgaard any additional damages or relief which is permitted by law or which the court finds equitable, appropriate or just.

RCW 84.64.060**Payment by interested person before day of sale.**

(1) Any person owning a recorded interest in lands or lots upon which judgment is prayed, as provided in this chapter, may in person or by agent pay the taxes, interest and costs due thereon to the county treasurer of the county in which the same are situated, at any time before the day of the sale; and for the amount so paid he or she will have a lien on the property liable for taxes, interest, and costs for which judgment is prayed; and the person or authority who collects or receives the same must give a receipt for such payment, or issue to such person a certificate showing such payment. If paying by agent, the agent must provide notarized documentation of the agency relationship.

(2) Notwithstanding anything to the contrary in this section, a person need not pay the amount of any outstanding liens for amounts deferred under chapter 84.37 or 84.38 RCW, if such amounts have not become payable under RCW 84.37.080 or 84.38.130.

[2015 c 86 § 315; 2003 c 23 § 4; 2002 c 168 § 9; 1963 c 88 § 1; 1961 c 15 § 84.64.060. Prior: 1925 ex.s. c 130 § 118; RRS § 11279; prior: 1897 c 71 § 99.]

RCW 84.64.080**Foreclosure proceedings—Judgment—Sale—Notice—Form of deed—Recording.**

(1) The court must examine each application for judgment foreclosing a tax lien, and if a defense (specifying in writing the particular cause of objection) is offered by any person interested in any of the lands or lots to the entry of judgment, the court must hear and determine the matter in a summary manner, without other pleadings, and pronounce judgment. However, the court may, in its discretion, continue a case in which a defense is offered, to secure substantial justice to the contestants.

(2) In all judicial proceedings for the collection of taxes, and interest and costs thereon, all amendments which by law can be made in any personal action in the court must be allowed. No assessments of property or charge for any of the taxes is illegal on account of any irregularity in the tax list or assessment rolls, or on account of the assessment rolls or tax list not having been made, completed, or returned within the time required by law, or on account of the property having been charged or listed in the assessment or tax lists without name, or in any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, vitiates or in any manner affects the tax or the assessment of the tax. Any irregularities or informality in the assessment rolls or tax lists or in any of the proceedings connected with the assessment or levy of the taxes, or any omission or defective act of any officer connected with the assessment or levying of the taxes, may be, in the discretion of the court, corrected, supplied, and made to conform to the law by the court.

(3) The court must give judgment for the taxes, interest, and costs that appear to be due upon the several lots or tracts described in the notice of application for judgment. The judgment must be a several judgment against each tract or lot or part of a tract or lot for each kind of tax included therein, including all interest and costs. The court must order and direct the clerk to make and enter an order for the sale of the real property against which judgment is made, or vacate and set aside the certificate of delinquency, or make such other order or judgment as in law or equity may be just. The order must be signed by the judge of the superior court and delivered to the county treasurer. The order is full and sufficient authority for the treasurer to proceed to sell the property for the sum set forth in the order and to take further steps provided by law.

(4) The county treasurer must immediately after receiving the order and judgment proceed to sell the property as provided in this chapter to the highest and best bidder. The acceptable minimum bid must be the total amount of taxes, interest, and costs. The property must be sold "as is." There is no guarantee or warranty of any kind, express or implied, relative to: Title, eligibility to build upon or subdivide the property; zoning classification; size; location; fitness for any use or purpose; or any other feature or condition of a foreclosed property sold pursuant to this chapter or sold pursuant to chapter 36.35 RCW as a tax title property.

(5) All sales must be made at a location in the county on a date and time (except Saturdays, Sundays, or legal holidays) as the county treasurer may direct, and continue from day to day (Saturdays, Sundays, and legal holidays excepted) during the same hours until all lots or tracts are sold. The county treasurer must first give notice of the time and place where the sale is to take place for ten days successively by posting notice thereof in three public places in the county, one of which must be in the office of the treasurer.

(6) Unless a sale is conducted pursuant to RCW 84.64.225, notice of a sale must be substantially in the following form:

TAX JUDGMENT SALE

Public notice is hereby given that pursuant to real property tax judgment of the superior court of the county of in the state of Washington, and an order of sale duly issued by the court, entered the day of,, in proceedings for foreclosure of tax liens upon real property, as per provisions of law, I shall on the day of, at o'clock a.m., at in the city of

.., and county of, state of Washington, sell the real property to the highest and best bidder for cash, to satisfy the full amount of taxes, interest and costs adjudged to be due.

In witness whereof, I have hereunto affixed my hand and seal this day of,

Treasurer of county.

(7) As an alternative to the sale procedure specified in subsections (5) and (6) of this section, the county treasurer may conduct a public auction sale by electronic media pursuant to RCW 84.64.225.

(8) No county officer or employee may directly or indirectly be a purchaser of the property at the sale.

(9) If any buildings or improvements are upon an area encompassing more than one tract or lot, the same must be advertised and sold as a single unit.

(10) If the highest amount bid for any separate unit tract or lot exceeds the minimum bid due upon the whole property included in the certificate of delinquency, the excess must be refunded, following payment of all recorded water-sewer district liens, on application therefor, to the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. Assignments of interests, deeds, or other documents executed or recorded after filing the certificate of delinquency do not affect the payment of excess funds to the record owner. In the event that no claim for the excess is received by the county treasurer within three years after the date of the sale, the treasurer must at expiration of the three year period deposit the excess in the current expense fund of the county, which extinguishes all claims by any owner to the excess funds.

(11) The county treasurer must execute to the purchaser of any piece or parcel of land a tax deed. The tax deed so made by the county treasurer, under the official seal of the treasurer's office, must be recorded in the same manner as other conveyances of real property, and vests in the grantee, his or her heirs and assigns the title to the property therein described, without further acknowledgment or evidence of the conveyance.

(12) Tax deeds must be substantially in the following form:

State of	}	ss.
Washington		
County of		

This indenture, made this day of,, between, as treasurer of county, state of Washington, party of the first part, and, party of the second part:

Witnesseth, that, whereas, at a public sale of real property held on the day of,, pursuant to a real property tax judgment entered in the superior court in the county of on the day of,, in proceedings to foreclose tax liens upon real property and an order of sale duly issued by the court, duly purchased in compliance with the laws of the state of Washington, the following described real property, to wit: (Here place description of real property conveyed) and that the has complied with the laws of the state of Washington necessary to entitle (him, or her or them) to a deed for the real property.

Now, therefore, know ye, that, I, county treasurer of the county of, state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases provided, do hereby grant and convey unto, his or her heirs and assigns, forever, the real property hereinbefore described.

Given under my hand and seal of office this day of, A.D.

.....
County Treasurer.

[2019 c 28 § 1; 2015 c 95 § 12; 2004 c 79 § 7; 2003 c 23 § 5. Prior: 1999 c 153 § 72; 1999 c 18 § 8; 1991 c 245 § 27; 1981 c 322 § 5; 1965 ex.s. c 23 § 4; 1963 c 8 § 1; 1961 c 15 § 84.64.080; prior: 1951 c 220 § 1; 1939 c 206 § 47; 1937 c 118 § 1; 1925 ex.s. c 130 § 20; RRS § 11281; prior: 1909 c 163 § 1;

1903 c 59 § 5; 1899 c 141 § 18; 1897 c 71 § 103; 1893 c 124 § 105; 1890 p 573 § 112; Code 1881 § 2917. Formerly RCW 84.64.080, 84.64.090, 84.64.100, and 84.64.110.]

NOTES:

Intent—2015 c 95: See note following RCW 36.16.145.

Part headings not law—1999 c 153: See note following RCW 57.04.050.

Validation—1963 c 8: "All rights acquired or any liability or obligation incurred under the provisions of this section prior to February 18, 1963, or any process, proceeding, order, or judgment involving the assessment of any property or the levy or collection of any tax thereunder, or any certificate of delinquency, tax deed or other instrument given or executed thereunder, or any claim or refund thereunder, or any sale or other proceeding thereunder are hereby declared valid and of full force and effect." [1963 c 8 § 2.]

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